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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/703,341	10/31/2000	Pascal H. Huart	062891.0495	3088
7590	03/28/2005			
Terry J. Stalford, Esq Baker Botts L.L.P. 2001 Ross Avenue Dallas, TX 75201-2980			EXAMINER GAUTHIER, GERALD	
			ART UNIT 2645	PAPER NUMBER 7
DATE MAILED: 03/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/703,341

Applicant(s)

HUART ET AL.

Examiner

Gerald Gauthier

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-29, 31-44, 46-51 and 53-61 is/are rejected.
- 7) ☒ Claim(s) 15, 30, 45 and 52 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/3/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. **Claims 1-14, 16-29, 31-44, 46-51 and 53-61** are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Donovan et al. (US 6,396,908 B1) in view of Yue et al. (US 5,857,013) in further view of Anandakumar et al. (US 6,757,256 B1).

Regarding **claims 1, 31 and 46**, O'Donovan discloses a method for call connected to voice mail (column 1, lines 7-13), comprising:

generating real-time packets for transmission of a message toward a voice mail system (column 6, line 61 to column 7, line 12) [The voice message is transferred to a data network access device 14 in a real-time packet format via the internet].

O'Donovan discloses the transfer of the voice message to a remote voice mail system but fails to disclose interrupting generation of the real-time packets, resuming generation of the real-time packets.

However, Yue teaches interrupting generation of the real-time packets upon a call answer by a party (column 21, lines 20-30) [The system notifies the subscriber while using the voice mail system that an incoming call is received and the subscriber accepts the call and the system interrupts the service of the voice mail system]; and

resuming generation of the real-time packets for transmission after a delay associated with the call answer (column 21, lines 20-30) [The system resumes the service of the voice mail system for the subscriber at the departure point of the voice mail service so there is no lost in the voice message].

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify O'Donovan using the interrupting generation of the real-time packets and resuming generation of the real-time packets as taught by Yue.

This modification of the invention would offer the capability of interrupting generation of the real-time packets and resuming generation of the real-time packets so that the user would not miss calls.

O'Donovan discloses the transfer of the voice message to a remote voice mail system but fails to disclose indicating to the voicemail system that the real-time packets generated subsequent to the delay follow the real-time packets.

However, Anandakumar teaches indicating to the voicemail system that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the delay in the message by a time amount less than the delay (column 18, line 61 to column 19, line 19) [The 5B embodiment receives the indication from the source machine the delay in time of the received packets and proceeds to correct by initiating the Spike mode to recognize the arrived packets].

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify O'Donovan using the indicating that the packets generated subsequent to the delay as taught by Anandakumar.

This modification of the invention would offer the capability of indicating that the real-time packets generated subsequent to the delay so that the subscriber would listen the full messages when retrieving its messages.

Regarding **claims 2, 17, 32 and 47**, Anandakumar teaches transmitting the real-time packets as they are generated (column 16, lines 53-63).

Regarding **claims 3, 18, 33 and 48**, Anandakumar teaches indicating to the voice mail system that the real-time packets generated subsequent to the delay follow substantially immediately the real-time packets generated prior to the delay in the message (column 18, lines 61-67).

Regarding **claims 4, 19, 34 and 49**, Anandakumar teaches indicating to the voice mail system that the real-time packets generated subsequent to the delay immediately follow the real-time packets generated prior to the delay in the message (column 18, lines 61-67).

Regarding **claims 5, 20, 35 and 50**, Anandakumar teaches an in-band notification (column 18, lines 61-67).

Regarding **claims 6, 21 and 36**, Anandakumar teaches the in-band notification comprises timing indicators in the real-time packets (column 18, lines 61-67).

Regarding **claims 7, 22 and 37**, Anandakumar teaches the timing indicators comprise time stamps (column 18, lines 61-67).

Regarding **claims 8, 23 and 38**, Anandakumar teaches the timing indicators comprise sequence numbers (column 15, lines 22-36).

Regarding **claims 9, 24 and 39**, Anandakumar teaches an out-of band signal between a device generating the real-time packets and the voice mail system (column 15, lines 37-47).

Regarding **claims 10, 25, 40 and 57**, Anandakumar teaches the packets comprise real-time transport protocol packets (column 15, lines 22-36).

Regarding **claims 11, 26, 41 and 56**, Anandakumar teaches a time stamp and sequence number operable to indicate to the voice mail system that the packets generated subsequent to the delay follow substantially immediately the packets generated prior to the delay in the message (column 18, lines 61-67).

Regarding **claims 12, 27, 42 and 51**, Anandakumar teaches generating the real-time packets for transmission of the message after the delay based on the value of the timing indicator (column 18, lines 61-67).

storing a value of a timing indicator upon the call answer by the party generating the message (column 15, lines 22-36).

Regarding **claims 13, 28 and 43**, Anandakumar teaches generating a first real-time packet after the delay using the value of the timing indicator and generating each successive real-time packet by incrementing the timing indicator of the previous packet (column 18, lines 61-67).

Regarding **claims 14, 29 and 44**, Anandakumar teaches including the value of the timing indicator in the first real-time packet after the delay (column 18, lines 61-67).

Regarding **claims 16 and 59**, O'Donovan, Yue and Anandakumar disclose all the limitations of **claim 16** stated in **claim 1**'s rejection above and O'Donovan furthermore discloses logic encoded in media (column 6, lines 61-67) [The data network process 14 includes the logic to transmit the voice message packet to the voice mail system].

Regarding **claim 53**, O'Donovan discloses the non real time application comprises an application recording the information stream (column 6, lines 61-67).

Regarding **claim 54**, O'Donovan discloses the intervening event comprises an intervening connection (column 6, lines 48-60).

Regarding **claim 55**, O'Donovan discloses the information stream comprises an audio stream (column 6, lines 61-67).

Regarding **claim 58**, O'Donovan discloses establishing a connection with the non real-time application (column 6, lines 61-67); and

receiving a notification from the non real-time application that it comprises a non real-time application (column 6, lines 61-67).

Regarding **claim 60**, O'Donovan, Yue and Anandakumar disclose all the limitations of **claim 60** in the rejection of **claim 1** above and furthermore O'Donovan discloses a transmission medium (40 on FIG. 1).

Regarding **claim 61**, O'Donovan, Yue and Anandakumar disclose all the limitations of **claim 61** as stated in **claim 1**'s rejection above and furthermore Anandakumar teaches storing a time stamp value and a sequence number value upon interrupting generation of the packets (column 15, lines 22-36) [The packet loss rate threshold and threshold 2 are selected for the calculation of time stamp and sequence number stored in the real-time voice packets].

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify O'Donovan using the storing a time stamp value and a sequence number value upon interrupting generation of the packets as taught by Anandakumar.

This modification of the invention would offer the capability of storing a time stamp value and a sequence number value upon interrupting generation of the packets so that the subscriber would listen the full messages when retrieving its messages.

Allowable Subject Matter

4. **Claims 15, 30, 45 and 52** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to **claims 1-61** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (703) 305-0981. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**GERALD GAUTHIER
PATENT EXAMINER**

g.g.
November 19, 2004

**FAN TSANG
SUPERVISORY PATENT EXAMINER
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